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August 11, 2008

Mr Jeff S Jordan
Supervisory Attorney
Complaints Examinations & Legal Administration
Federal Election Commission
999 E Street NW
Washington, DC 20463

RE MUR 6042

Dear Mr Jordan

On behalf of Pat Roberts for U S Senate, Inc (the "Committee") and Robert A Parrish, the Committee's Treasurer, I write in response to a Complaint filed by the Kansas Democratic Party ("KDP") and assigned MUR 6042 Given the *de minimis* nature of the allegations, we trust the Commission will quickly dismiss this matter

The advertisement in question highlights candidate Jim Slattery's fourteen-year career as a Washington lobbyist and lists many of Slattery's special-interest group clients, from whom he received millions of dollars in compensation

The advertisement begins with an oral "stand by your ad" disclaimer, thereby meeting the requirements of federal law See 11 CFR § 110 11(c)(3)(ii) ("A communication transmitted through television or through any broadcast, cable, or satellite transmission, must include a statement that identifies the candidate and states that he or she has approved the communication ") (emphasis added) Contrary to the KDP's insinuation, Commission regulations do not require that such a disclaimer appear at the end of the advertisement, indeed, it is commonplace for candidates to place them at the beginning

In addition to the proper oral disclaimer, a clearly-identifiable video image of Senator Pat Roberts is shown pursuant to federal law See 11 CFR § 110 11(c)(3)(ii) - (ii)(B) ("The candidate shall convey the statement either [through an unobscured, full-screen view of himself making the statement or] [t]hrough a voice-over accompanied by a clearly-identifiable photographic or similar image of the candidate A photographic or similar image of the candidate shall be considered clearly identified if it is at least eighty (80) percent of the vertical screen height ")

Accompanying the "stand by your ad" oral and visual disclaimers at the beginning of the ad is a text disclaimer reading "PAID FOR AND AUTHORIZED BY PAT ROBERTS FOR U S SENATE " While this disclaimer did not appear at the end of the advertisement, it met all other requirements of § 110 11(c)(3)(iii)

As to the KDP's two thin charges of misconduct

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(1) The KDP's unsupported allegation that Senator Roberts's image is "purposely" obscured in the "stand by your ad" video clip is simply false. Senator Roberts's image is plainly visible, quite large, and easily identifiable. As the KDP is surely aware, it is commonplace for "stand by your ad" visuals to show the candidate shaking hands with voters and/or speaking to an audience. Nowhere do Commission regulations or federal law require that the candidate be pictured alone – only that he or she be "clearly identified" under the regulatory definition of the term.

(2) The advertisement clearly notifies voters that it was paid for by the Committee (as noted in the written disclaimer) and authorized by Senator Roberts himself (as noted in the oral disclaimer). It is absurd to suggest that the Roberts campaign failed to "endorse clearly and plainly, the content of their advertisements." ¹ Complaint at 2.

With respect to future television advertisements, the Committee intends to more clearly conform to the Commission's disclaimer regulations by also placing written disclaimers at the end of advertisements. In the meantime, it would be inappropriate to penalize the Committee for its inadvertent and *de minimis* conduct. See e.g. ADR 142/MUR 5532 (where vendor failed to print disclaimers on yard signs, matter dismissed because "Commission resources can be better expended on other matters"), ADR 208/MUR 5531 (where mailers advocating the election of federal candidates failed to display adequate disclaimers, matter dismissed due to the *de minimis* nature of the allegations), ADR 231/MUR 5500 (where mailers from federal committee failed to meet statutory requirements, matter dismissed due to the *de minimis* nature of the allegations).

Given the Committee's assurances that it will more clearly abide by Commission regulations for all future public communications and solicitations, and given the *de minimis* nature of this allegation, we respectfully request that the Commission dismiss this matter as it has similar matters in the recent past.

Sincerely,


[NAME]

David Koestger
Campaign Manager

¹ Indeed, a more serious violation of the Commission's disclaimer regulations would be one where the disclaimer is wholly obscured or impossible to read. For example, following is a screen shot taken from the Complainant's own website, www.kdp.org, on August 6, 2008 via Microsoft Explorer (the most likely browser to be used by KDP website visitors). As you will note, the KDP's disclaimer appears in tiny white font on a pale yellow background, rendering it wholly unreadable. See Attachment A.

Attachment A



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